

THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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MARY F. McTIGUE
DIRECTOR

February 18, 1994
AO-94-02

John Timothy Phelan, Esq.
33 Nahant Street
Lynn, MA 01902

Re: Purchase of Pickup Truck

Dear Mr. Phelan:

This letter is in response to your December 15, 1993 request for an advisory opinion regarding the purchase of a used pickup truck by your political committee.

You have stated that you are a candidate for reelection to the Lynn School Committee. You are considering the purchase of a 1984 Chevrolet S10 pickup truck, with approximate mileage of 108,000 miles, from your sister.¹ You have stated that the sole purpose of the truck will be to conduct campaign activities, in particular, to serve as a platform for advertising materials. You have stated that the truck will be used from February to November, 1994 and will be taken off the road after the campaign. You have also stated that your committee will pay \$500 for the vehicle, which you state is below the truck's "book value." For the reasons which follow, I conclude that your committee may purchase the truck.

M.G.L. c. 55, s. 6 provides, in pertinent part, that political committees such as yours may make expenditures for the enhancement of the political future of the candidate "so long as such expenditure is not primarily for the candidate's or any other person's personal use."

Although neither c. 55 nor the regulations specifically address the purchase of a pickup truck or other motor vehicle for campaign purposes, this office has advised that such a purchase may be made, in certain limited circumstances, by a candidate.

1. Please note that where a payment is made to a candidate's relative, the payment is closely scrutinized by this office to insure compliance with the prohibition against personal use and to ensure that the payment is based on an arms-length transaction. You should therefore maintain documentation relating to the transaction in your committee files.

See AO-92-22. In addition, the regulations promulgated by this office for candidates who are not seeking statewide office provide that reasonable travel expenditures may be made by a candidate's committee if certain requirements are satisfied, depending on the nature of the expenditure. See 970 CMR 2.06(3)(d) and (f).

This office has consistently advised candidates and committees that, in limited circumstances, they may purchase a motor vehicle only after first making a good faith effort to lease a motor vehicle at a reasonable cost. See AO-92-22 and M-90-02. A lease, unlike a purchase, involves possession for a limited and defined period of time. The use of the vehicle can more readily be associated with use which is limited to a political campaign and is less likely to raise concerns that the vehicle will be used primarily for non-campaign purposes at some point several years after its purchase.

Based on the facts presented in your letter, your political committee may pay the fair market value of the pickup truck, since a pickup truck could not be leased for nine months for less than \$500.²

However, if the pickup truck is used for any limited, incidental non-campaign related travel, (i.e., daily commuting or the like) by you or anyone else, the political committee must be reimbursed for all such personal use, and records must be maintained, in accordance with OCPF Memorandum M-90-02, a copy of which is enclosed with this advisory opinion. The records which must be maintained require the committee's keeping an account book, diary, log statement of expenses, trip sheets or similar records and documentary evidence. The enclosed memorandum describes, in detail, the records which must be maintained.

The purchase of the pickup truck may require the reporting of a contribution. To the extent the value of the pickup truck is more than \$500 (the amount which will be paid for the truck), your committee will receive an in-kind contribution from your sister. See 970 CMR 2.07(3). You should note that the campaign finance law limits the aggregate annual contributions which your committee may receive from any individual to \$1,000. See M.G.L. c. 55, s. 7. Accounts must be kept of all contributions and all contributions must be reflected in the campaign finance reports filed with the city clerk. See M.G.L. c. 55, ss. 2 and 18.

If the value of the pickup truck is more than \$1,000, has a useful life of more than one year, and would be depreciable in the normal business environment, this office would consider the pickup truck to be an asset of the political committee

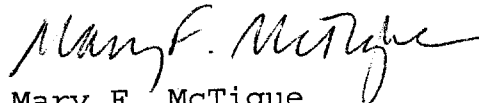
². I assume, but do not decide, that the fair market value of the truck is \$500.

which would have to be reported annually on OCPF Schedule E (Disclosure of Assets Statement). Please note that all items belonging to the political committee are assets; however, they must be reported only if they are valued at over \$1,000.

Finally, please note that if the pickup truck is sold at the time of your political committee's dissolution, your political committee should ensure compliance with M.G.L. c. 55, s. 18. Section 18 requires disposition of all assets prior to dissolution. All residual funds remaining in the committee's account at dissolution must be donated to the Local Aid Fund of the commonwealth, a city or town's general fund, or certain charities or scholarship funds. When the committee disposes of the truck prior to the committee's dissolution, the committee should ensure compliance with this office's Memorandum OCPF-M-84-02 (a copy is enclosed, for information).

This opinion has been rendered solely on the basis of representations made in your letter and in your telephone conversation with Gregory Birne of this office, and solely in the context of M.G.L. c. 55.

Very truly yours,



Mary F. McTigue
Director

MFM/cp
Enclosures